

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36241

COOS BAY RAIL LINE, INC.—CHANGE IN OPERATORS EXEMPTION—COOS BAY
RAILROAD OPERATING COMPANY, LLC D/B/A COOS BAY RAIL LINK

Docket No. FD 36242

OREGON INTERNATIONAL PORT OF COOS BAY—CONTINUANCE IN CONTROL
EXEMPTION—COOS BAY RAIL LINE, INC.

Digest:¹ This decision permits Coos Bay Rail Line, Inc., to assume operations on an expedited basis over approximately 133 miles of railroad line in Oregon that is currently served by Coos Bay Railroad Operating Company, LLC d/b/a Coos Bay Rail Link. This decision also permits on an expedited basis the Oregon International Port of Coos Bay to continue in control of Coos Bay Rail Line, Inc.

Decided: November 14, 2018

On October 29, 2018, as amended October 31, 2018, and November 6, 2018, Coos Bay Rail Line, Inc. (Coos Rail), filed in Docket No. FD 36241 a verified notice of a change in operators exemption under 49 C.F.R. § 1150.31 to assume operations over two railroad lines (collectively, the Line) owned by Oregon International Port of Coos Bay (the Port). The Line extends from milepost 652.114 at Danebo, Or., to milepost 763.13 at Cordes, Or.; and from milepost 763.13 at Cordes to milepost 785.5 at Coquille, Or., a total distance of approximately 133 miles. Also on October 29, 2018, as amended October 31, 2018, the Port filed a verified notice of exemption in Docket No. FD 36242 pursuant to 49 C.F.R. § 1180.2(d)(2) to continue in control of Coos Rail upon Coos Rail's commencement of common carrier operations on the Line. Notices of the exemptions were published in the Federal Register on November 14, 2018 (83 Fed. Reg. 56,894-95).

Under 49 C.F.R. § 1150.32(b) and 49 C.F.R. § 1180.4(g), notices of exemption become effective 30 days after they are filed. Accordingly, the verified notices filed by Coos Rail in Docket No. FD 36241 and by the Port in Docket No. FD 36242 ordinarily would be effective November 28, 2018. However, on October 31, 2018, Coos Rail and the Port (collectively, the

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. See Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

Petitioners) jointly filed a petition to waive the 30-day effectiveness period to allow the exemptions to become effective no later than November 19, 2018. The Petitioners explain that they had planned to transition operations on the Line from the incumbent carrier, Coos Bay Railroad Operating Company, LLC d/b/a Coos Bay Rail Link (CBRL), to Coos Rail on or before November 1, 2018, but their previous attempt to obtain authority from the Board for the proposed transaction was unsuccessful. See Or. Int'l Port of Coos Bay—Intra-Corp Family Transaction Exemption, FD 36199 et al., slip op. at 3 (STB served October 26, 2018) (rejecting the prior notices of exemption related to this transaction because they raised significant questions). The Petitioners state that the requested waiver is necessary to minimize the risk of disruption to interstate commerce. Additionally, according to the Petitioners, the shippers on the Line were provided notice of the change in operators when the verified notice of exemption was filed in Docket No. FD 36228. The Petitioners further state that CBRL joins in the waiver request. There were no filings in opposition to the request for waiver.

For good cause shown, the Board will grant the unopposed petition and waive the 30-day requirement under § 1150.32(b) and § 1180.4(g) to the extent necessary to permit the exemptions to take effect on November 19, 2018. The circumstances of this case indicate that a waiver is appropriate, especially given that the shippers on the Line were previously given notice of the anticipated change in operators and that the waiver request is unopposed. Accelerating the effective date of the exemptions will help avoid a potential disruption of rail service on the Line. As the effective date of the exemptions will be accelerated, the due date for stay petitions in these dockets will similarly be moved, to November 15, 2018.

It is ordered:

1. The petition for waiver is granted.
2. In Docket No. FD 36241, the 30-day provision under 49 C.F.R. § 1150.32(b) is waived, and the exemption shall become effective on November 19, 2018. Stay petitions will be due November 15, 2018.
3. In Docket No. FD 36242, the 30-day provision under 49 C.F.R. § 1180.4(g) is waived, and the exemption shall become effective on November 19, 2018. Stay petitions will be due November 15, 2018.
4. This decision is effective on its service date.

By the Board, Board Members Begeman and Miller.